

REMARKS

Entry of this amendment and reconsideration of this application are respectfully requested.

It is believed that all objections and 35 U.S.C. §112, fourth paragraph, are overcome by amendments to the claims.

Claims 22-54 were rejected under 35 U.S.C. §103(a) for allegedly being unpatentable over Shekhter. Applicants respectfully traverse.

At pages 6-7 of the office action, the Examiner provides a response to applicant's prior arguments.

Specifically, the Examiner alleges that the process for preparing a metal powder and the properties of the produced powder disclosed by Shekhter et al. ('447 B1) meet all the process and property limitations as instantly claimed. In reply, applicants reiterate that the reduction of zirconium oxide or titanium oxide with a specific particle size with metallic magnesium or calcium particles is not described anywhere in Shekhter. A man of skill in the art reading Shekhter would expect completely different behavior of zirconium oxide or titanium oxide because of the different amounts of Gibbs Free Energy. As previously noted, the present application describes for the first time a cost efficient way for producing a specific product with specific requirements in view of the received particle size, BET surface and ignition properties, which are reflected in the invention set forth in the pending claims.

Shekhter provides no hints or suggestions as to how these specific properties could be reached. The examples described therein refer to niobium or tantalum and do not disclose the pyrotechnic behavior.

The Examiner also alleges that Shekhter discloses that his process can be applied to produce or co-produce powders comprising Ti and Zr; however, col. 4, lines 1-3 show describe only that "Ta, Nb and Ta/Nb alloy, any of these alone or *with further inclusion of added or co-produced Ti, Mn, V, W, Hf and/or Zr.*" Thus, Shekhter does not contemplate producing powders of only Zr or Ti.

The Examiner also alleges that Shekhter is open to the use of solid Mg metal as a reductant. However, as previously indicated, Shekhter uses gaseous magnesium for the reduction of Niob and/or Tantal oxides. Col. 15, line 57 indicates that the Mg was evaporated.

Thus, it is not believed that solid reducing agents are not contemplated by Shekhter.

In view of the foregoing, the rejection should be withdrawn.

Allowance is respectfully requested.

The Commissioner is hereby authorized to charge any deficiency in the fees filed, asserted to be filed or which should have been filed herewith (or with any paper hereafter filed in this application by this firm) to our Deposit Account No. 50-0624, under Order No. NY-DNAG-313-US.

Respectfully submitted

FULBRIGHT & JAWORSKI L.L.P.

By James R. Crawford/

James R. Crawford

Reg. No. 39,155

666 Fifth Avenue
New York, New York 10103
(212) 318-3000